

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

_____)	
DOMINGO A. GONZALEZ,)	
Petitioner,)	
)	
v.)	CR. No. 05-137-S
)	
UNITED STATES OF AMERICA,)	
Respondent.)	
_____)	

ORDER

WILLIAM E. SMITH, United States District Judge.

The above captioned matter is a Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (ECF No. 203) filed by Petitioner Domingo A. Gonzalez, in which he alleges that his trial counsel was ineffective due, in part, to a conflict of interest. Gonzalez has included an affidavit in further support of his allegations.

The Court has determined that an affidavit from Petitioner's trial counsel is necessary to decide the Motion. Accordingly, the Government is directed to obtain and submit an affidavit from Robert B. Mann, Esq.

Counsel's affidavit should address the following questions:

1. What is counsel's recollection of a post-trial conversation with Petitioner, if any, in which counsel allegedly told Petitioner that counsel had a conflict

of interest based on his prior representation of Lisa Torres;

2. Was counsel aware of an alleged actual conflict of interest during Petitioner's trial due to his previous representation of Ms. Torres;

3. If so, did said alleged conflict affect counsel's representation of Petitioner in any way, including, but not limited to:

- a) raising arguments regarding Ms. Torres;
- b) disclosing exculpatory evidence;
- c) contradicting the Government's version of the evidence pertaining to the wiretap and telephone records or developing the record with respect thereto;
- d) cross-examining the Government's witnesses more zealously; and

4. Did counsel contemplate calling Ms. Torres as a defense witness and, if so, why did he not do so.

Said affidavit shall be filed within twenty-one days of the date of this order.

IT IS SO ORDERED:

/s/ William E. Smith

William E. Smith
United States District Judge
Date: November 7, 2013